

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAVIER LUIS,

Plaintiff,

vs.

Civil Action No. 1:12-cv-00629

**Dlott, J.
Bowman, M.J.**

**JOSEPH ZANG, et al.,
Defendants.**

**PLAINTIFF'S FIRST MOTION
FOR LEAVE TO FILE FIRST
CORRECTED RESPONSE TO
REQUEST FOR ATTORNEYS
FEES [DOC.# 238]¹**

Plaintiff, Javier Luis, hereby motions for leave to file his first corrected response to Awareness Technologies request for attorney's fees (Doc.# 238). As Awareness was surely aware at the time of its filing, this case is being appealed and as such this filing is unnecessary and untimely as the case has yet to reach its final conclusion.² Moreover Plaintiff had observed due diligence as he had submitted to Tech a complex and involved set of inquiries Tech mostly decided not to answer which left plaintiff unable to effectively submit any viable evidence.

¹ Plaintiff remains uncertain if this should be titled "Plaintiffs motion for leave to file motion to disallow all of the requested costs." Either way the litigation is again headed towards appeals, and it has not achieved sufficient finality that Tech could be called prevailing parties or in the absence of judicial relief. Plaintiff called into the clerk's office believing he could not file in this case since it has been closed –other than his filing of a notice of appeal. The office advised he could still file, but also believed this filing by Awareness was likely untimely due to the case being appealed. Nonetheless observing an excess of caution Plaintiff is filing this objection.

² Plaintiff is uncertain if Tech's motion concerns events back in March or not. Either way their motion seems untimely on either front.

(Exhibit A) Nonetheless, as Plaintiff has previously submitted, all the necessary evidence was submitted by Tech itself. It is up to the Appeals court to decide if its mechanism of intercept copies his information contemporaneously with transmission when the information is taken from the RAM - as more recent appeals courts have held- or if it going to decide that such copying of electronic data is not intended to be protected by the Wiretap Act as more outdated decisions have previously held. Regardless, as stated above, this request by Tech is untimely and Plaintiff objects to its filing at this time when he is in the process of selecting an attorney for his appeal.

Dated: July 26, 2018

Respectfully Submitted,

/s/ Javier Luis
JDLuis65Ohio@gmail.com

I, Javier Luis hereby declare under penalty of perjury that the above is true and correct to the best of my knowledge and belief. I further certify that I have knowledge of the events I have spoken about and I am willing to testify under oath as to any and all claims.

/s/ Javier Luis

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion was filed electronically on July 26, 2018
Parties may access this document through that system.

/s/ Javier Luis, Pro Se